

Remarks

I. Status

Claim 4 been cancelled. After entry of the current amendment, independent Claim 1 and Claims 2-5, 7-12 and 15-18 dependent therefrom are the only claims being prosecuted on the merits.

Claim 1 has been amended to include the limitation -- at least 90% of said solvent is evaporated by spray drying in less than five minutes--. Support for the amendment can be found in cancelled claim 4. No new matter is being added.

II. Amended Claim 1 and Claims 2-3 dependent therefrom are Non-obvious over WO 01/42209 in view of the Gaspar et al article

Claims 1-3 stand rejected under 35 USC 103(a) as being unpatentable over WO 01/42209 and further in view of the Gaspar et al article. Claim 4 has been cancelled by this amendment. Applicants acknowledge that Claims 4, 5, 7-12 and 15-18 are objected to as being dependent on a rejected base claim and respectfully traverse the rejection of claim 1 as amended.

The Examiner has alleged that one skilled in the art would have found the claimed process prima facie obvious because WO 01/42209, which teaches each element of instant claims 1-3 except for the technique of spray drying as an evaporation step combined with the teachings of the Gaspar et al article, which promotes the advantages of spray drying, would have been obvious to more efficiently obtain amorphous atorvastatin.

Applicants respectfully submit that Claim 1 has been amended to include the limitation -- at least 90% of said solvent is evaporated by spray drying in less than five minutes--. Support for this amendment can be found in cancelled claim 4; a claim only objected to as being dependent upon a rejected base claim. While not acquiescing to the Examiner's position on the merits, this rejection is moot by virtue of the present amendment of claim 1, which solely is being done to place the application in better condition for allowance.

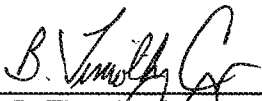
III. Conclusion

Applicants acknowledge that amended independent Claim 1 and Claims 2-5, 7-12 and 15-18 dependent therefrom are patentable over WO 01/42209 and further in view of the Gaspar et al article.

Having addressed all outstanding issues, Applicants kindly request removal of all rejections and allowance of pending claims 1-5, 7-12 and 15-18 at this time. To the extent the Examiner believes that it would facilitate allowance of this case, the Examiner is urged to call the undersigned attorney at the number below.

Respectfully submitted,

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